

November 8, 2012

Omar Ashmawy
Staff Director and Chief Counsel
Office of Congressional Ethics
1017 Longworth HOB
Washington, D.C. 20515

BY FAX: 202-226-0997

Re: Request for Investigation into Conduct of Rep. Darrell E. Issa (R-CA)

Dear Mr. Ashmawy:

Citizens for Responsibility and Ethics in Washington respectfully requests that the Office of Congressional Ethics (OCE) investigate whether Rep. Darrell Issa (R-CA) violated House rules by using official government resources to create and distribute a political ad attacking President Barack Obama less than a week before the presidential election.

Background

On November 2, 2012, Rep. Issa posted a video on the official website of the House Committee on Oversight and Government Reform, purportedly exposing wasteful government spending on official state dinners.¹ The video, entitled “Obama State Dinners: Spend Like He Says, Not Like He Does,” juxtaposes the high costs of state dinners with President Obama’s disapproving comments about the General Services Administration’s lavish spending on a conference in Las Vegas, Nevada. The video includes the caption, “\$969,793 White House Party? It’s Worse than GSA Vegas,” and invites to viewers to click and “Watch the Whole Story.”²

In addition to creating the video and posting it to the committee’s official website, also on November 2, Rep. Issa used his official Twitter account to announce and promote the video, sending out 14 separate tweets about the administration’s state dinner spending, 13 of which included links to the video.³

¹ The video is also posted on the website for the House Republican Majority, under the leadership of Chairman Jeb Hensarling (R-TX). *See* <http://www.gop.gov/blog/12/11/02/the-president-cant-stop-spending>.

² <http://oversight.house.gov/>.

³ *See* <https://twitter.com/DarrellIssa>.

Legal Violations

Improper Use of Resources

Pursuant to 31 U.S.C. § 1301(a), “[a]ppropriations shall be applied only to the objects for which the appropriations were made.” Based on this statute, regulations of the House Administration Committee provide that “[e]mployees may not be compensated from public funds to perform non-official, personal, political, or campaign activities on behalf of the Member, the employee, or anyone else.”⁴ Similarly, the House Ethics Committee cites 31 U.S.C. § 1301(a) in explaining that “[e]mployees may not be compensated from public funds to perform nonofficial, personal, or campaign activities on behalf of the Member.”⁵ A government officer or employee who violates this statute “shall be subject to” administrative discipline, including suspension from duty without pay or removal from office,⁶ and an officer or employee who “knowingly and willfully” violates them “shall be fined not more than \$5,000, imprisoned for not more than 2 years, or both.”⁷

The video Rep. Issa posted on the House Committee on Oversight and Government Reform’s website is nothing more than a negative political advertisement against President Obama. It opens with the caption “All the President’s Parties,” but offers no facts other than the alleged costs of the dinners. The ad features the president talking about the country’s economic problems, but then asks “Is this responsible spending?” while displaying faux invoices from the White House to “American Taxpayers” listing the cost of the “India State Dinner,” and “Mexico State Dinner.” The ad calls these expenditures a “state dinner spending spree” and informs the viewer that the president wants us to “save like he says,” “not like he does.”

The attack ad offers no information about any action whatsoever by the House Committee on Oversight and Government Reform. Further, it makes no attempt to put the costs of the two state dinners into context – no information is provided about the costs of any other administrations’ state dinners. In fact, the only purpose of the ad – particularly given its release just days before a hotly contested presidential election – is to attempt to elicit outrage against the president for holding state dinners at a time when Americans are facing fiscal difficulties.

⁴ Committee on House Administration, Members’ Handbook, *Staff*.

⁵ House Ethics Manual, p. 279; *see also id.*, pp. 267-268 (*citing United States v. Rostenkowski*, 59 F.3d 1291, 1307-11 (D.C. Cir. 1995), *reh’g denied*, 68 F.3d 489 (D.C. Cir. 1995); United States v. Diggs, 613 F.2d 988, 994-997, 1002 (D.C. Cir. 1979), *cert. denied*, 446 U.S. 982 (1980)).

⁶ 31 U.S.C. § 1349(a).

⁷ 31 U.S.C. § 1350.

It is deeply ironic that Rep. Issa violates the prohibition on misuse of official resources to complain about the president's alleged misuse of resources. It is all the more ridiculous given how utterly irrational it is to suggest state dinners are not legitimate government expenses.

Rules Governing Committee Websites and Use of Social Media

The House Committee Handbook provides that committee websites may not "include personal, political or campaign information."⁸ As the ad attacking President Obama's spending on state dinners is clearly political, Rep. Issa has violated this rule by posting the video on the website of the House Committee on Oversight and Government Reform. The Members' Handbook provides that "Member-controlled content on Social Media Accounts is subject to the same requirements as content on Member websites."⁹ Therefore, Rep. Issa also violated this prohibition by sending links to the website to his followers via Twitter.

House Rule 23

Rule 23 of the House Ethics Manual requires all members of the House to conduct themselves "at all times in a manner that reflects creditably on the House."¹⁰ This ethics standard is considered to be "the most comprehensive provision" of the code.¹¹ When this section was first adopted, the Select Committee on Standards of Official Conduct of the 90th Congress noted it was included within the Code to deal with "flagrant" violations of the law that reflect on "Congress as a whole," and that might otherwise go unpunished.¹² This rule has been relied on by the Ethics Committee in numerous prior cases in which the committee found unethical conduct including making false statements to the committee.¹³

⁸ Committee on House Administration, Committee Handbook, *Website Regulations: Content*.

⁹ Committee on House Administration, Members' Handbook, *Websites*.

¹⁰ Rule 23, cl. 1.

¹¹ House Comm. on Standards of Official Conduct, House Ethics Manual, p. 12.

¹² House Comm. on Standards of Official Conduct, Report Under the Authority of H. Res. 418, H. Rep. No. 1176, 90th Cong., 2d Sess. 17 (1968).

¹³ House Comm. on Standards of Official Conduct, *In the Matter of Representative Charles H. Wilson (of California)*, H. Rep. No. 95-1741, 95th Cong., 2d Sess. 4-5 (1978); *In the Matter of Representative Edward R. Roybal*, H. Rep. No. 95-1743, 95th Cong., 2d Sess. 2-3 (1978) (Counts 3-4).

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By using committee resources to create a negative political ad against the President of the United States, posting that ad on an official House committee website, and using an official Twitter account to promote the specious video, Rep. Issa has engaged in conduct that does not reflect creditably upon the House.

Conclusion

American taxpayers have a right to assume their money is being spent on the people's business and not on campaign activities or political activities. Just as Rep. Issa wants others in the federal government held accountable for misusing scarce taxpayer resources, so too must he be held accountable for his own misuse of resources in violation of federal law and House rules.

I am aware that the False Statements Act, 18 U.S.C. § 1001, applies to information submitted to the Office of Congressional Ethics.

Sincerely,



Melanie Sloan
Executive Director
Citizens for Responsibility and
Ethics in Washington

cc: Hon. Daniel E. Lungren, Chairman
Hon. Robert Brady, Ranking Member
House Committee on Administration